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In re Application of :  
**INAGAKI**, et al. :  
Application No. 10/823,634 : DECISION DISMISSING PETITION  
Filed: April 14, 2004 : UNDER 37 CFR 1.313(c)(2)  
Attorney Docket No. 826.1633D :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:


A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

Unfortunately, the petition was not received by the appropriate official for a decision until after July 8, 2008, the date upon which the above-identified application issued as U.S. Patent No. 7,397,981. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The inconvenience caused petitioner in this matter is sincerely regretted. However, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. (*See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions)*, 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); *Revised Procedures for Papers Requiring Immediate Attention*, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent. The RCE and the information disclosure statement (IDS) will remain in the file of the above-identified application without further consideration. *See* 37 CFR 1.197(1). The \$810 RCE filing fee and \$130 petition fee paid on July 3, 2008 is being credited to counsel's credit card.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-7253.

  
Monica A. Graves  
Petitions Examiner  
Office of Petitions